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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 09-189; RM-11564; DA 14-112]

Radio Broadcasting Services; Kahuku and Kualapuu, Hawaii

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial of petition for reconsideration.

SUMMARY: The Media Bureau denies a Petition for Reconsideration filed by Kona Coast Radio, LLC (“Kona”) of the dismissal of its Petition for Rule Making for a new FM allotment at Kahuku, Hawaii, because Kona had not demonstrated error with the staff’s decision. The Bureau also affirmed the grant of a Counterproposal filed by Kemp Communications, Inc. for a new allotment at Kualapuu, Hawaii, and a minor modification application filed by Big D Consulting, Inc. See Supplementary Information.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes or Deborah Dupont, Media Bureau, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, DA 14-112, adopted January 30, 2014, and released January 31, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 12th Street, SW, Washington, D.C. 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC, 20054, telephone 1-800-378-3160 or www.BCPIWEB.com. This document is

not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this Memorandum Opinion and Order to the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Petition for Reconsideration was denied.

The Bureau ruled that Kona's Petition for Rule Making was properly dismissed for three reasons. First, Kona had submitted a late filed expression of interest in the proposed allotment that would prejudice another party in violation of Commission policy. Second, although Kona's Petition for Rule Making was filed on July 24, 2009, it was improperly addressed and not received at the Office of the Secretary until August 18, 2009. Because an intervening and conflicting application was filed by Big D Consulting, Inc., on August 10, 2009, the application had cut-off protection vis-à-vis Kona's filing, and, therefore, Kona's Petition for Rule Making was properly dismissed. Third, Kona had not submitted sufficient grounds for waiver of the filing requirement that pleadings in FM allotment rule making proceedings be officially filed at the Secretary's office. See also Report and Order, 76 FR 12292, March 7, 2011.

FEDERAL COMMUNICATIONS COMMISSION.

Peter H. Doyle,
Chief, Audio Division,
Media Bureau.

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